

## Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 EPG-02 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-01

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-07 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15

USIA-06 FEA-01 AF-10 ARA-10 EA-07 EUR-12 NEA-10

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R 012131Z JUL 77

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 4323

C O N F I D E N T I A L SECTION 1 OF 2 USUN 2116

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: SITREP JUNE 29, 1977

1. COMMITTEE I. THERE WERE NO MEETINGS OF THE FULL COMMITTEE, AS BOTH EVENSEN AND ENGO WERE OUT OF TOWN, AND THE G-77 BEGAN CAUCUSING TO CONSIDER THE VARIOUS EVENSEN COMPROMISE TEXTS.

2. AS REPORTED IN PREVIOUS SITREPS, JOHN BAILEY (AUSTRALIAN AND COMMITTEE I RAPPORTEUR) IS CHAIRING A TECHNICAL GROUP ON FINANCIAL ARRANGEMENTS. BAILEY, WHO IS WORKING ON ENGO'S BEHALF, SEEKS TO PRODUCE A COMPROMISE PROPOSAL WHICH COULD FORM THE BASIS OF DISCUSSION IN COMMITTEE I NEXT WEEK (JULY 5). UNFORTUNATELY, BAILEY'S PAPERS FLOATED IN THE TECHNICAL GROUP TO DATE REPRESENT A COLLECTION OF VIRTUALLY EVERYBODY'S IDEAS, RATHER THAN A DISTILLATION OF PROPOSALS. THUS, HIS REVENUE SHARING SCHEME INCLUDES AN ADMINISTRATIVE FEE, ANNUAL MINING CHARGES, ROYALTIES, AND PROFIT SHARING. THIS SHOPPING LIST  
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LEAVES BLANKS FOR FILLING IN PERCENTAGES AND AMOUNTS, AND ON THE WHOLE IT LACKS COHERENCE.

3. IN ADDITION TO OUR FINANCIAL PROPOSALS WHICH AMBASSADOR RICHARDSON CIRCULATED ON JUNE 3, THE USDEL HAS PROVIDED BAILEY WITH DETAILED DRAFTING CHANGES TO HIS PAPERS. ESSENTIALLY, WE HAVE SUGGESTED THAT THE FINAN-

CIAL ARRANGEMENTS SHOULD CONTAIN THREE ELEMENTS: (1) AN APPLICATION FEE; (2) A NOMINAL ROYALTY DESIGNED TO ASSURE THE AUTHORITY A STEADY CASH FLOW TO COVER ADMINISTRATIVE COSTS; AND (3) AN INCOME PRODUCING SYSTEM IN WHICH THE CONTRACTOR COULD ELECT EITHER PROFIT SHARING OR FIXED PAYMENTS.

4. IN PRIVATE MEETINGS WITH BAILEY AND IN TECHNICAL GROUP DISCUSSIONS, THE U.S. HAS STRESSED THE FOLLOWING POINTS: (1) IT IS USELESS TO PRODUCE ANOTHER PAPER WITHOUT THE CRITICAL NUMERICAL BLANKS FILLED IN. BAILEY SHOULD STRIVE TO CONSTRUCT ALTERNATIVE PACKAGES AND ILLUSTRATE THE ESTIMATED FINANCIAL EFFECTS OF EACH. (2) THE FINANCIAL EXPERTS SHOULD CONCENTRATE ON THE BEST WAY TO APPORTION A REASONABLE AMOUNT OF INCOME FOR THE INTERNATIONAL COMMUNITY AND AVOID A THEOLOGICAL DISCUSSION ON THE NATURE OF THE AUTHORITY AND STATE SOVEREIGNTY. (3) THE NEATEST WAY OF DEALING WITH THE AUTHORITY'S ENTITLEMENT WOULD BE TO BASE REVENUE SHARING ON ACTIVITIES IN THE AREA (I.E., THE MINE SITE). AND (4) WHATEVER FINANCIAL ARRANGEMENTS ARE AGREED ON SHOULD APPLY EQUALLY TO THE ENTERPRISE.

5. OTHER INDUSTRIAL COUNTRY PARTICIPANTS, ESPECIALLY UK, FRG, FRANCE, JAPAN, USSR AND CANADA, HAVE BEEN SIMILARLY CRITICAL OF BAILEY'S WORK AND SUPPORTIVE OF CONFIDENTIAL

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U.S. PROPOSALS. THE G-77 PARTICIPANTS (INDIA, PAPUA NEW GUINEA, BRAZIL, AND CHILE) HOWEVER, HAVE GENERALLY STUCK TO THE INDIAN FINANCING PROPOSAL (HEAVY FRONT END PAYMENTS, HEAVY ROYALTIES, HEAVY PROFIT SHARING). THEY HAVE ALSO ARGUED IN FAVOR OF APPLYING REVENUE SHARING FORMULAE TO THE ENTIRE OPERATION, FROM MINE SITE THROUGH PROCESSING. NEVERTHELESS, IT SHOULD BE NOTED THAT THE G-77 HAS YET TO CONSIDER FINANCIAL ARRANGEMENTS AS A GROUP; SOME COUNTRIES THAT ARE POTENTIAL SITES OF PROCESSING PLANTS (E.G., MEXICO AND CENTRAL AMERICA) MAY NOT BE ENTHUSIASTIC ABOUT FORFEITING THEIR TAX BASE TO THE AUTHORITY.

6. COMMITTEE II. COMMITTEE II MET IN A BRIEF FORMAL SESSION THIS MORNING TO CONSIDER A REPORT FROM THE SECRETARIAT CONCERNING ITS DECISION ON THE COLOMBIAN/AUSTRIAN PROPOSAL. THE REPORT CONFIRMED THAT THE SUGGESTED PRELIMINARY STUDY ON DELIMITATION WOULD BE INITIATED AND PRESENTED TO THE COMMITTEE HOPEFULLY DURING THIS SESSION. ARGENTINA REQUESTED THAT THE STUDY ALSO INCLUDE DATA BASED UPON THE EXPLOITABILITY CRITERION OF THE 1958 GENEVA CONTINENTAL SHELF CONVENTION. THIS WAS AGREED UPON.

7. AN INFORMAL MEETING OF THE COMMITTEE FOLLOWED TO RESUME DISCUSSION OF MISCELLANEOUS MATTERS. DEBATE CONTINUED ON THE FIVE-POWER DRAFT AMENDMENTS TO CHAPTER IX (ENCLOSED AND SEMI-ENCLOSED SEAS). PREGRESSION OF DEBATE INDICATED THAT THIS SUGGESTED PACKAGE WAS GENERALLY EITHER REJECTED IN ITS ENTIRETY OR EMASCULATED BEYOND ITS ORIGINAL INTENT THROUGH REVISIONS AND/OR FURTHER AMENDMENTS. OTHER THAN THE SPONSORS, SUPPORT FOR THE REVISED CHAPTER IX CAME FROM ONLY THREE COUNTRIES: THAILAND, FRG, AND ETHIOPIA. FINLAND INTRODUCED AN ALTERNATIVE PROPOSAL TO CHAPTER IX WHICH DID RECEIVE SUPPORT. IT INCLUDED: (A) A REFORMULATION OF THE DEFINITION OF ENCLOSED AND SEMI-ENCLOSED SEAS;  
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(B) AN EXCLUSION IN THE FORM OF A NEW ARTICLE 129 (2) WHICH PROVIDES FOR EXEMPTION OF QUOTE SPACIOUS SEA BASINS WHICH SEPARATE CONTINENTS AND WHICH THEMSELVES INCLUDE A NUMBER OF SEMI-ENCLOSED SEAS UNQUOTE FROM THE TERMS OF THE CHAPTER. THIS AMENDMENT HAD BEEN VERBALLY SUGGESTED BY THE USSR DURING THE PREVIOUS SESSION. A PROPOSED ARTICLE 129 BIS SOUGHT TO ENUMERATE, IN A GENERAL FASHION, THE OBLIGATIONS OF STATES BORDERING SEMI-ENCLOSED SEAS. THE PROPOSED ARTICLE 130 IS ESSENTIALLY THE SAME AS THAT OF THE RSNT WITH THE EXCEPTION THAT IT INCLUDES "AGREEMENTS" AS A SUGGESTED MEANS OF COOPERATION AMONG BORDERING STATES.

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C O N F I D E N T I A L SECTION 2 OF 2 USUN 2116

FROM LOS DEL

8. CONSULTATIVE GROUP II (CONTINENTAL SHELF/REVENUE SHARING) MET IN THE AFTERNOON AND BEGAN ITS PROCEEDINGS WITH A "FINAL" REPORT ON ARTICLE 70 FROM THE SMALL WORKING GROUP OF SIX. THE REPORT ENUMERATED THE RESPECTIVE ELEMENTS OF CONSENSUS AND DISCORD ON THE SEVERAL PROVISIONS OF ARTICLE 70. THE REPORT INCLUDES: (1) UNANIMOUS ACCEPTANCE OF ARTICLE 70 (1) OF THE RSNT; (2) TENTATIVE AGREEMENT ON A REVISED ARTICLE 70 (4) WHICH PROVIDES THAT: "PAYMENTS AND CONTRIBUTION SHALL BE MADE THROUGH THE INTERNATIONAL SEABED AUTHORITY, WHICH SHALL DISTRIBUTE THEM TO STATES PARTIES TO THIS CONVENTION ON THE BASIS OF EQUITABLE SHARING CRITERIA, TAKING INTO ACCOUNT THE INTERESTS AND NEEDS OF DEVELOPING COUNTRIES, PARTICULARLY THE LEAST DEVELOPED AND LAND-LOCKED AMONGST THEM." DIVISION STILL EXISTS ON THE RATE OF REVENUE SHARING AND LENGTH OF THE MORATORIUM PERIOD. SOME DELEGATES SUPPORT THE 1 PERCENT - 5 PERCENT FORMULA WITH A FIVE-YEAR MORATORIUM; OTHERS BELIEVE THAT IF THE FIVE-YEAR MORATORIUM PREVAILS (OTHERWISE SUGGESTING A LESSER PERIOD), THE FINAL RATE OF ASSESS-  
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MENT SHOULD INCREASE CORRESPONDINGLY FROM 5PERCENT TO 7PERCENT. THUS, AN ORGANIC LINK HAS BEEN ESTABLISHED BETWEEN THE FINAL RATE OF ASSESSMENT AND THE PERIOD OF GRACE. LIKEWISE, A DIRECT RELATIONSHIP BETWEEN ARTICLE 70 (3) AND THE PROPOSED ARTICLE 65 BIS (AUSTRIAN PROPOSAL) HAS EMERGED. AN "IMAGINED" CONSENSUS WAS DESCRIBED WHICH WOULD SUBSTITUTE THE CANADIAN FORMULATION (NET IMPORTER, DEVELOPING COUNTRY EXEMPTION) FOR THE PRESENT WORDING OF ARTICLE 70 (3) IN EXCHANGE FOR A RESOLUTION OF PRINCIPLES TO BE ADOPTED BY THE CONFERENCE EMBODYING THE SUBSTANTIVE SPIRIT OF ARTICLE 65 BIS. THIS PROPOSED QUID PRO QUO FAILED TO ELICIT THE ACQUIESCENCE OF SOME DELEGATIONS, NOTABLY SINGAPORE AND NIGERIA. THE US PROPOSED AN ALTERNATIVE FORMULA DESIGNED TO OBVIATE THE DIFFICULTIES OF PARA. 3. IT WOULD DELETE PARA. 3 AND REVISE PARA. (4) SO THAT "AN APPROPRIATE ENTITY OF THE UNITED NATIONS" IS DESIGNATED THE CHANNEL OF DISTRIBUTION AND DISTRIBUTION IS BASED UPON "EQUITABLE SHARING CRITERIA, TAKING INTO ACCOUNT THE INTERESTS AND NEEDS OF DEVELOPING COUNTRIES, ESPECIALLY THE LL AND GDS AMONG THEM, AS WELL AS DEVELOPING COUNTRIES WHICH HAVE MADE PAYMENTS OR CONTRIBUTIONS

IN ACCORDANCE WITH PARAS. 1 AND 2 OF THIS ARTICLE." THIS  
IDEA BEHIND THE PROPOSAL GAINED THE SUPPORT OF NIGERIA,  
FRANCE, SWITZERLAND AND SINGAPORE (REGARDING NO LDC EXEMP-  
TION).

9. IN RESPECT TO THE QUESTION OF DELIMITATION OF THE  
CONTINENTAL SHELF, JAPAN TABLED A FORMULA WHICH INCORPOR-  
ATES ELEMENTS OF ITS PREFERRED GEOLOGICAL METHOD OF DELIM-  
ITATION (EXTENT OF ITS PREFERRED GEOLOGICAL METHOD OF  
DELIMITATION (EXTENT OF THE MARGIN SYNONYMOUS WITH THE  
BOUNDARY BETWEEN THE CONTINENTAL AND OCEANIC CRUST  
PLUS THE HEDBERG FORMULA AS A SUBSIDIARY METHOD)  
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## Message Attributes

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